



Reprinted  
January 18, 2006

## HOUSE BILL No. 1114

DIGEST OF HB 1114 (Updated January 17, 2006 5:57 pm - DI 107)

**Citations Affected:** IC 32-21; IC 36-2.

**Synopsis:** Various property matters. Specifies the language sufficient to incorporate by reference a recorded covenant, restriction, easement, or other encumbrance in a conveyance of land. Provides that an adverse possessor or claimant who wishes to establish title to land or real estate must pay the taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate. (Current law requires the adverse possessor or claimant to pay the taxes and special assessments due on the land or real estate.) Reduces the standard for the redaction of Social Security numbers in recorded documents from "to the extent possible" to "to the extent practicable". Adds a culpability standard for the Class A infraction that may be committed when recorded documents containing Social Security numbers are disclosed by the county recorder's office. Provides that a county recorder shall charge a fee for recording a document. Provides the methods of payment that a county recorder may authorize that it may be paid with. Provides that a county recorder may collect a sum if it is charged a fee for the use of a financial instrument or credit card. Repeals the duty of an individual preparing a document for recording to affirm under perjury that the individual has reviewed the document and redacted each Social Security number in the document. Repeals the prohibition on accepting a document for recording that does not have the affirmation.

**Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006.

**Foley, Thomas**

January 4, 2006, read first time and referred to Committee on Judiciary.  
January 5, 2006, reported — Do Pass.  
January 17, 2006, read second time, amended, ordered engrossed.

HB 1114—LS 6778/DI 92+



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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1114

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A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 32-21-1-17 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 17. A conveyance of land may incorporate**  
4 **by reference a recorded covenant, restriction, easement, or other**  
5 **encumbrance on the use of the land with a clause that is**  
6 **substantially similar to any of the following:**

7           (1) "Subject to the \_\_\_\_\_ (insert the type of  
8 encumbrance) recorded on \_\_\_\_\_ (insert the date of  
9 recording) in \_\_\_\_\_ (insert the book and page number  
10 on which the encumbrance is recorded or the instrument  
11 number in which the encumbrance is recorded).".

12           (2) "Subject to \_\_\_\_\_ (insert the type of encumbrance)  
13 of record.".

14       SECTION 2. IC 32-21-7-1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]:  
16 Sec. 1. In any suit to establish title to land or real estate, possession of  
17 the land or real estate is not adverse to the owner in a manner as to

HB 1114—LS 6778/DI 92+



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1 establish title or rights in and to the land or real estate unless the  
 2 adverse possessor or claimant pays and discharges all taxes and special  
 3 assessments **that the adverse possessor or claimant reasonably**  
 4 **believes in good faith to be** due on the land or real estate during the  
 5 period the adverse possessor or claimant claims to have possessed the  
 6 land or real estate adversely. However, this section does not relieve any  
 7 adverse possessor or claimant from proving all the elements of title by  
 8 adverse possession required by law.

9 SECTION 3. IC 36-2-7.5-6, AS ADDED BY P.L.91-2005,  
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: Sec. 6. ~~(a) A county recorder may not accept a~~  
 12 ~~document for recording without the completed and executed form~~  
 13 ~~described in section 5 of this chapter attached to the document. A form~~  
 14 ~~attached to a document under this subsection is considered part of the~~  
 15 ~~document for purposes of the fee charged under subsection (b) in~~  
 16 ~~accordance with IC 36-2-7-10.~~

17 ~~(b)~~ (a) The county recorder shall charge a fee for recording a  
 18 document ~~under this chapter~~ in accordance with IC 36-2-7-10.

19 ~~(c)~~ (b) The county recorder shall deposit two dollars (\$2) of the fee  
 20 charged under subsection ~~(b)~~ (a) in the county identification security  
 21 protection fund established by section 11 of this chapter. This  
 22 subsection expires July 1, 2011.

23 SECTION 4. IC 36-2-7.5-8, AS ADDED BY P.L.91-2005,  
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. (a) This section  
 26 applies after December 31, 2007.

27 (b) To the extent ~~possible~~, **practicable**, a county recorder may not  
 28 disclose a recorded document for public inspection under IC 5-14-3  
 29 until the county recorder has:

- 30 (1) searched the document for a Social Security number; and  
 31 (2) to the extent ~~possible~~, **practicable**, redacted any Social  
 32 Security numbers contained in the document;  
 33 using redacting technology.

34 SECTION 5. IC 36-2-7.5-11, AS ADDED BY P.L.91-2005,  
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers  
 37 to a county identification security protection fund established under  
 38 subsection (b).

39 (b) Each county legislative body shall establish an identification  
 40 security protection fund to be administered by the county recorder. The  
 41 county fiscal body shall appropriate money from the fund.

42 (c) A fund consists of money deposited in the fund under section

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1 ~~6(c)~~ **6(b)** of this chapter. Money in a fund does not revert to the county  
2 general fund.

3 (d) A county recorder may use money in the fund only to purchase,  
4 upgrade, implement, or maintain redacting technology used in the  
5 office of the county recorder.

6 SECTION 6. IC 36-2-7.5-12, AS ADDED BY P.L.91-2005,  
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. (a) This section  
9 applies after June 30, 2008.

10 (b) A county recorder or an employee of a county recorder who  
11 **knowingly, intentionally, or recklessly** discloses a recorded document  
12 that contains a Social Security number without having the document  
13 searched, to the extent technologically ~~possible~~, **practicable**, using  
14 redacting technology commits a Class A infraction.

15 SECTION 7. IC 36-2-11-27 IS ADDED TO THE INDIANA CODE  
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2006]: Sec. 27. (a) **A payment to the county recorder for any  
18 purpose may be made by any of the following financial instruments  
19 that the county recorder authorizes to use:**

20 (1) Cash.

21 (2) Check.

22 (3) Bank draft.

23 (4) Money order.

24 (5) Bank card or credit card.

25 (6) Electronic funds transfer.

26 (7) Any other financial instrument authorized by the county  
27 recorder.

28 (b) If there is a charge to the county recorder for the use of a  
29 financial instrument other than a bank card or credit card, the  
30 county recorder shall collect a sum equal to the amount of the  
31 charge from the person who uses the financial instrument.

32 (c) The county recorder may contract with a bank card or credit  
33 card vendor for acceptance of bank or credit cards. However, if  
34 there is a vendor transaction card or discount fee, whether billed  
35 to the county recorder or charged directly to the county recorder's  
36 account, the county recorder shall collect from the person using the  
37 card an official fee that may not exceed the highest transaction  
38 charge or discount fee charged to the county recorder by bank or  
39 credit card vendors regardless of retail merchant agreements  
40 between the bank and credit card vendors that may prohibit such  
41 a fee. The fee is a permitted charge under IC 24-4.5-3-202.

42 (d) Funds described in subsection (c) may be used without

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1     **appropriation to pay the transaction charge or discount fee**  
2     **charged by the bank or credit card vendor.**

3     SECTION 8. IC 36-2-7.5-5 IS REPEALED [EFFECTIVE  
4     JANUARY 1, 2006 (RETROACTIVE)].

5     SECTION 9. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1114, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1114 be amended to read as follows:

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 3. IC 36-2-7.5-6, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a)~~ ~~A county recorder may not accept a document for recording without the completed and executed form described in section 5 of this chapter attached to the document. A form attached to a document under this subsection is considered part of the document for purposes of the fee charged under subsection (b) in accordance with IC 36-2-7-10.~~

~~(b)~~ ~~(a)~~ The county recorder shall charge a fee for recording a document ~~under this chapter~~ in accordance with IC 36-2-7-10.

~~(c)~~ ~~(b)~~ The county recorder shall deposit two dollars (\$2) of the fee charged under subsection ~~(b)~~ ~~(a)~~ in the county identification security protection fund established by section 11 of this chapter. This subsection expires July 1, 2011."

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 5. IC 36-2-7.5-11, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers to a county identification security protection fund established under subsection (b).

(b) Each county legislative body shall establish an identification security protection fund to be administered by the county recorder. The county fiscal body shall appropriate money from the fund.

(c) A fund consists of money deposited in the fund under section ~~6(c)~~ ~~6(b)~~ of this chapter. Money in a fund does not revert to the county general fund.

(d) A county recorder may use money in the fund only to purchase,

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upgrade, implement, or maintain redacting technology used in the office of the county recorder."

Page 2, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 7. IC 36-2-11-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 27. (a) A payment to the county recorder for any purpose may be made by any of the following financial instruments that the county recorder authorizes to use:**

- (1) Cash.**
- (2) Check.**
- (3) Bank draft.**
- (4) Money order.**
- (5) Bank card or credit card.**
- (6) Electronic funds transfer.**
- (7) Any other financial instrument authorized by the county recorder.**

**(b) If there is a charge to the county recorder for the use of a financial instrument other than a bank card or credit card, the county recorder shall collect a sum equal to the amount of the charge from the person who uses the financial instrument.**

**(c) The county recorder may contract with a bank card or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction card or discount fee, whether billed to the county recorder or charged directly to the county recorder's account, the county recorder shall collect from the person using the card an official fee that may not exceed the highest transaction charge or discount fee charged to the county recorder by bank or credit card vendors regardless of retail merchant agreements between the bank and credit card vendors that may prohibit such a fee. The fee is a permitted charge under IC 24-4.5-3-202.**

**(d) Funds described in subsection (c) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor."**

Page 2, line 29, delete "THE FOLLOWING ARE REPEALED" and insert "IC 36-2-7.5-5 IS REPEALED".

Page 2, line 30, delete "(RETROACTIVE)]: IC 36-2-7.5-5; IC 36-2-7.5-6;" and insert "(RETROACTIVE)].".

Page 2, delete line 31.

Renumber all SECTIONS consecutively.

(Reference is to HB 1114 as printed January 6, 2006.)

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